

REMARKS UNDER 37 C.F.R. § 1.116  
U.S. Application No. 09/964,337

Attorney Docket No. Q66004

**REMARKS**

Claims 1 - 9 are presently pending in the application.

**I. Rejection of Claims 8 and 9 Under 35 U.S.C. § 112, First Paragraph**

Claims 8 and 9 are rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement. That is, the rejection states that the phraseology “device-independent color space” is not supported by the specification. This rejection is respectfully traversed as follows.

Succinctly, verbatim support is not the proper standard as to whether the disclosure satisfies the description requirement of 35 U.S.C. § 112, first paragraph. *See* M.P.E.P. § 2163.02, third paragraph. Indeed, the “fundamental factual inquiry is whether the specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed.” *Vas-Cath, Inc., v. Mahurkar*, 935 F.2d 1555, 1563-64, 19 USPQ2d 1111, 1117 (Fed. Cir. 1991). In the present application, while the specification-as-filed does not explicitly use the terminology “device-dependent” or “device-independent,” the specification (for instance, the exemplary embodiment on page 7) provides full support for such terms, as explained below.

Page 7 of the specification states that an exemplary embodiment of the instant invention may comprise L\*a\*b color spaces for the second color space, and that the first color space may be represented by CMYK. A L\*a\*b color space is, by definition, a device-independent color space. Conversely, a CMYK color space is, by definition, a device-dependent color space. Such propositions are supported by international standards, such as the Commission Internationale

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d'Eclairage (CIE), which holds that a  $L^*a^*b$  color space is a device-independent color space and a CMYK color space is a device-dependent color space.<sup>2</sup> Accordingly, it is respectfully requested that the Examiner reconsider and withdraw this rejection as the specification-as-filed provides full support for the captioned terminology.

## II. Rejection of Claims 1 - 4, 6 and 9 Under 35 U.S.C. § 102

Claims 1 - 4, 6 and 9 stand rejected under 35 U.S.C. § 102 as allegedly being anticipated by U.S.P. No. 6,269,184 ("Spaulding"). This rejection is respectfully traversed as follows.

M.P.E.P. § 2131 requires that "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim" (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Circ. 1989)). § 2131 further requires that a "claim is anticipated only if each and every element as set forth in the claim is found . . . in a single prior art reference" (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, (Fed. Cir. 1987)).

The Examiner states that Figs. 2 and 5A-C, as well as Col. 4, lines 36 - 42 and Col. 7, lines 50 - 54, teaches all of the limitations of the final stanza of the instant invention's independent claim 1. The last stanza of independent claim 1 recites:

. . . an image display section for displaying a color reproduction image in which there are plotted coordinate points on said second color space associated with coordinates within the coordinate range designated by said range designation section of coordinates of lattice points wherein said first color space is partitioned as a lattice.

The Examiner's comparison of the cited portions of Spaulding to the above-noted portion of independent claim 1 is inapposite. That is, independent claim 1 recites: "an image display

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<sup>2</sup> See, e.g., [www.efi.com/products/color\\_crashcourse\\_colorimetry.html](http://www.efi.com/products/color_crashcourse_colorimetry.html).

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section for displaying a color reproduction image . . . wherein said first color space is partitioned as a lattice.” Further, independent claim 1 recites an image display section for displaying plotted coordinate points for the second color space. These features are entirely absent in the Spaulding reference, as explained below.

The Examiner asserts that Spaulding’s Figs. 5A-C teach or suggest the displayed lattice as claimed. However, the cited Figures merely correspond to a graphical representation of a transformation and morphing. The user does not select the points of the lattice. Rather, the user selects a color by selecting a region of an image using a mouse or inputting an RGB numerical value. Point selection is then matched to a color chart. See Col. 5, lines 33 - 61. Moreover, there is no lattice display. Additionally, the Examiner’s reliance on Figs. 6A-D are deficient for similar reasons. Specifically, the graphical information is not displayed in Figs. 5A-D and 6A-D. Figs. 5A-D and 6A-D are only conceptual illustrations to describe the method steps of the Spaulding reference.

Additionally, the second color space in Spaulding is not displayed on a display. Indeed, the second color space in Spaulding is printed to a printer. See Col. 7, lines 19 - 23 (“[t]he effects of this transformation are evaluated . . . by, for example, printing a portion of the input image and visually reviewing it to determine whether it is subjectively satisfactory. . .”).

Moreover, the Examiner’s own citations support the above proposition. For instance, the Examiner cites to Fig. 2 as teaching a second color space being displayed on a display. However, Fig. 2 clearly indicates that the second color space is printed to a printer (reference numeral 24 is a conventional color printer, see Col. 4, lines 45 - 46). Additionally, Col. 4, lines

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36 - 42, merely reflects that a first color space is displayed on a display; and Col. 7, lines 50 - 54, does nothing to indicate that a second color space is displayed on a display.

In light of the previous, it is respectfully requested that the Examiner reconsider and withdraw the instant rejection.

Further as to claims 2 - 4, these claims depends from claim 1 and are therefore patentable for the same reasons finding claim 1 patentable.

Additionally as to claim 2, the Examiner cites to Figs. 5A-C and 6A-D as somehow teaching that an image display section displays a color reproduction image in either of a two or three-dimensional basis. However, Figs. 5A-C and 6A-D merely reflect transform processes and do nothing to indicate that these transform processes are displayed on a display, let alone in either of a two or three-dimensional basis.

Additionally as to claim 3, the Examiner cites to Col. 5, lines 33 - 53, Col. 7, lines 45 - 54, and Figs. 3 and 5A-C, as somehow teaching all of the features of claim 3. Clearly, however, the Examiner's citations (and the entirety of the Spaulding reference) fails to teach or suggest coordinate values of first and second color spaces being displayed on a display. Indeed, the Examiner's citations merely present the display of an input image and a map of color patches (*see* Col. 5, lines 45 - 50).

Additionally as to claim 4, the Examiner cites to Col. 7, lines 45 - 54, and Figs. 5A-C, as somehow teaching an image display section displaying a color reproduction image with information as to the distance between two points in the second color space. Once again, there is no teaching or suggestion in the Spaulding reference that indicates that Figs. 5A-C are displayed

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on a display. Figs. 5A-C merely reflect a transformation process and do nothing to teach or suggest the display of information as to the distance between two points in the second color space.

As to independent claim 6, this claim recites features similar to claim 1, but further including a storage medium for causing a computer to operate as a color reproduction characteristic display apparatus. Succinctly as to the Examiner's rejection of claim 6, the Spaulding reference absolutely fails to teach or suggest a second color space being displayed on a display.

As to independent claim 9, this claim recites features similar to claim 1, but further including the limitation of the first color space being device-dependent and the second color space being device-independent. Succinctly as to the rejection of claim 9, the Spaulding reference absolutely fails to teach or suggest the displayed lattice as claimed, or the second color space being displayed on a display, or the first color-space being device-dependent and the second color-space being device-independent.

Accordingly, it is respectfully requested that the Examiner reconsider and withdraw the previously noted rejections.

### **III. Rejection of Claims 5, 7 and 8 Under 35 U.S.C. § 103**

Claims 5 and 7 stand rejected under 35 U.S.C. § 103 in view of Spaulding and U.S.P. No. 6,411,304 ("Semba"). This rejection is respectfully traversed as follows.

A proper obviousness rejection requires that "all of the claim limitations must be taught or suggested by the prior art." *See* M.P.E.P. § 2143.03 (*citing In re Royka*, 490 F.2d 981 (CCPA

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1974)). As noted above in the discussion of independent claim 1, the Spaulding reference is deficient in teaching or suggesting all of the features of the claimed invention. Claim 5 depends from claim 1, thereby incorporating all of the features of claim 1. Because Spaulding is deficient, and further because Semba fails to cure the deficiencies of Spaulding, it is respectfully requested that the Examiner reconsider and withdraw the rejection of claim 5.

As to claim 7, the Examiner alleges that Spaulding's Col. 4, lines 18 - 30 and 55 - 60, in addition to Figs. 1, 2 and 5A-C, teaches or suggests development of first and second color data files representative of color profiles for first and second printing devices. However, the citations are absolutely deficient in teaching or suggesting these features. Moreover, while the Examiner cites to Semba's Fig. 1 and Col. 7, lines 3 - 17, and Col. 21, lines 4 - 10, these citations are absolutely irrelevant to the above-noted features. While Fig. 1 may show an overlay of two color profiles, the Fig. is deficient for not teaching or suggesting that the two color profiles both be for printing devices, as is required by independent claim 7. Accordingly, it is respectfully requested that the Examiner reconsider and withdraw this rejection.

Claim 8 stands rejected under 35 U.S.C. § 103 in view of Spaulding and U.S.P. No. 5,857,063 ("Poe"). This rejection is respectfully traversed as follows.

The Examiner alleges that Spaulding's Col. 3, lines 51 - 65, and Col. 4, lines 21 - 30, teaches or suggests a first and second transform, wherein both the first and second transform comprise image data comprise image data to a device-independent color space. Such a proposition is absolutely false. That is, Spaulding does nothing to state the both the first and second color spaces be device-independent. Indeed, from the examples listed at Col. 4, lines 24 -

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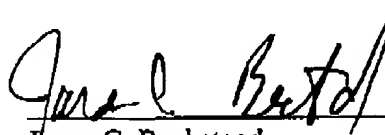
30, Spaulding's first and second color spaces may comprise either of a device-dependent and/or device-independent color space. Therefore, the Spaulding reference is deficient. Because the Poe reference fails to cure these deficiencies, it is respectfully requested that the Examiner reconsider and withdraw this rejection.

#### IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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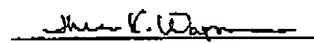
**23493**

CUSTOMER NUMBER

Date: March 16, 2004

#### CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this REMARKS UNDER 37 C.F.R. § 1.116 is being facsimile transmitted to the U.S. Patent and Trademark Office this 16th day of March, 2004.

  
Thea K. Wagner